

Confirmation No. 4968

Customer No. 28880

PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0951-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10/088,876	<b>RECEIVED</b> <b>CENTRAL FAX CENTER</b> <b>JAN 27 2006</b>
	Filing Date	January 16, 2003	
	First Named Inventor	Jason Peter Brown	
	Art Unit	1646	
	Examiner Name	Gyan Chandra	
Total Number of Pages in This Submission	4	Attorney Docket Number	PC18044A

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks _____		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Austin W. Zhang Reg. No. 48,061
Signature	<i>Austin W. Zhang</i>
Date	January 27, 2006

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Cindy Malocha
Signature	<i>Cindy Malocha</i>
Date	January 27, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

USPTO Fax No. 571-273-8300

PC18044A

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

APPLICANT : Jason Peter Brown, et al.

EXAMINER: Gyan Chandra

RECEIVED  
CENTRAL FAX CENTER

SERIAL NO : 10/088,876

ART UNIT : 1646

JAN 27 2006

FILED : January 16, 2003

CONF. NO.: 4968

FOR : SECRETED SOLUBLE ALPHA2DELTA-2, ALPHA2DELTA-3 OR  
ALPHA2DELTA-4 CALCIUM CHANNEL SUBUNIT  
POLYPEPTIDES AND SCREENING ASSAYS USING SAME

REPLY TO ELECTION/RESTRICTION REQUIREMENT

January 27, 2006

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This paper is in response to the Office action mailed 12/27/2005, which made a lack of unity of invention requirement.

**A. Restriction**

The Examiner alleges that the inventions listed as Groups 1-94 in the Office action do not relate to a single inventive concept under PCT Rule 13.1 and, consequently, requires the Applicant, in accordance with 37 CFR 1.499, to elect a single invention to which the claims must be restricted. In explaining the reasons for the requirement on page 3 of the Office action, the Examiner listed five different groups of claims: I (groups 1), II (groups 2-24), III (group 25-47), IV (groups 48-70), and V (groups 71-94), specifically described the unique special technical feature in each group, and explained why each group lacks unity with each other group. Accordingly, it is Applicants' understanding that the Examiner has considered that claims in each of groups I, II, III, IV, and V have unity of invention and, consequently, has required Applicant to elect a

10/088,876

- 2 -

PC18044A

single group from Groups I-V. Accordingly, Applicants hereby provisionally elect Group II, with traverse.

Applicants respectfully submit that they have a right to also have Group III (groups 25-47) included in the application along with Group II (groups 2-24). As the Examiner has acknowledged, "groups 2-24" recite the special technical feature of a calcium channel and "groups 25-47" recite the special technical feature of nucleic acid sequences. Because the nucleic acid sequences recited in Groups 25-47 encode the calcium channel recited in Groups 2-24, as the Examiner has acknowledged, the calcium channel and the nucleic acid sequences share a corresponding special technical feature. Consequently, the claims in Group II drawn to the calcium channel and claims in Group III drawn to the nucleic acid sequences have unity of invention, and as such, should be included in the same application.

#### B. Election of Species

The Examiner alleges that the application contains more than one species of the generic invention and that the species are deemed to lack unity of invention under PCT Rule 13.1. Consequently, the Examiner requires the Applicant to elect a single species. Applicants provisionally elect, with traverse, "SPA assay" for the screening assay, claims readable thereon being claims 47, 48, and 49. Applicants also provisionally elect, with traverse, "gabapentin" for the ligand, claims readable thereon being claims 49, 50, 51, and 52.

With respect to the screening assays, Applicants respectfully submit that they all require use of a soluble calcium channel  $\alpha 2\delta$  subunit; thus, soluble calcium channel  $\alpha 2\delta$  subunit is a special technical feature common to these assays. Accordingly, unity of invention exists among these assays.

With respect to the claims reciting various ligands, Applicants respectfully submit that all these ligands are amino acids and, thus, are members of a recognized class of compounds. Therefore, unity of inventions exists among these claims.

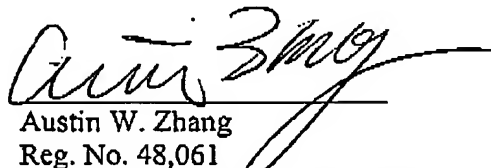
10/088,876

- 3 -

PC18044A

For the above reasons, Applicants respectfully request reconsideration and withdrawal of the requirements.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Austin Zhang", written over a horizontal line.

Austin W. Zhang

Reg. No. 48,061

Warner-Lambert Company LLC

2800 Plymouth Road

Ann Arbor, MI 48105

Tel. (734) 622-5035

Fax (734) 622-1553